



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Voluntary Report - public distribution

Date: 8/19/2004

GAIN Report Number: BR4618

Brazil

Food and Agricultural Import Regulations and Standards

New Requirements for Imported Plant Products 2004

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Report Highlights:

The Brazilian Ministry of Agriculture published in Brazil's Diario Oficial a proposed Normative Instruction for a new format for Pest Risk Analysis (PRA) to be applied to all imported plant products (seeds, grains, and vegetables).

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Brasilia [BR1]
[BR]

Executive Summary	2
Attachment I: Directive Number 202	3
Attachment II: Proposed Normative Instruction.	4
Appendix I: Procedures to start a Pest Risk Analysis Process.....	8
Appendix II: Request for sending the PRA proceeding to the cooperation center.....	11

Executive Summary

On August 12, 2004 the Brazilian Ministry of Agriculture, Livestock, and Food Supply (MAPA), published Directive Number 202, with the new proposed Normative Instruction (NI) establishing a new format for a Pest Risk Analysis (PRA) to be applied to all imported plant products, such as seeds, grains, and vegetables.

The proposed Normative Instruction is under a 60-day public consultation, beginning August 2, 2004. All comments must be sent directly to the Department of Plant Health and Inspection Service (DDIV) of MAPA, at the following address:

Departamento de Inspecao e Defesa Vegetal (DDIV)
Secretaria de Defesa Agropecuaria (SDA)
Ministerio da Agricultura, Pecuaria e Abastecimento (MAPA)
Esplanada dos Ministerios, Bloco D, Anexo B, Sala 332
70043-900 Brasilia, DF
Brazil
Fax: (55-61) 218-2667

According to DDIV office in Brasilia, the Brazilian Government has officially notified the WTO about these proposed requirements.

Attachment I: Directive Number 202**MINISTRY OF AGRICULTURE
MINISTER'S OFFICE**

Directive NO. 202, OF JULY 30, 2004.

THE INTERIM MINISTER OF AGRICULTURE, by virtue of the authority vested in him by Art. 87, sole paragraph, subsection II of the Constitution, in view of that provided by Chapters I and II of the Plant Health Protection Regulation, approved by Decree no. 24,114, of April 12, 1934, in Decree 1,355, of December 30, 1994, which approves the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations as regards the Agreement on Application of Sanitary and Phytosanitary Measures (SPS Agreement), Mercosur's 3.7 Standard, taking into account the need to organize the Pest Risk Assessment requirements, and that covered in Docket no. 21000.002229/2003-18, resolves to:

Art. 1 Offer for public comment for a period of 60 (sixty) days after the date of publication of this Ordinance, the Normative Instruction Draft and its appendix, which aim to organize the requirements of Pest Risk Assessment and the importation of plant species and their parts, products, and by-products to Brazil.

Art. 2 Public comments referred to in art. 1, if technically sound, shall be sent to the following address: Ministério da Agricultura, Pecuária e Abastecimento - Departamento de Defesa e Inspeção Vegetal - DDIV - Coordenação de Proteção de Plantas - CPP, Esplanada dos Ministérios - Bloco D - Anexo B - Sala 332 - CEP 70.043-900 - Fax (0XX61) 218-2667.

Art. 3 After the end of the period set forth in Art. 1 of this Ordinance, the Plant and Animal Health Protection Secretariat, by means of the Coordination of Plant Protection, shall assess the suggestions received and rectify them as necessary, and provide their final publication in the Federal Official Journal.

Art. 4 This Normative Instruction shall come into force on the date of its publication.

JOSÉ AMAURI DIMARZIO

Attachment II: Proposed Normative Instruction.

THE INTERIM MINISTER OF AGRICULTURE, by virtue of the authority vested in him by Art. 87, sole paragraph, subsection II, of the Constitution, as provided by Chapters I and II of the Plant Health Protection Regulation, approved by Decree no. 24,114, of April 12, 1934, in Decree no. 1,355, of December 30, 1994, which approves the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations, concerning the Agreement on Application of Sanitary and Phytosanitary Measures – SPS Agreement, Mercosur's 3.7 Standard, taking into account the need to organize the Pest Risk Analyses requirements, and that covered in Docket no. 21000.002229/2003-18, resolves to:

Art. 1 Regulate the importation of plant species and their parts, products, and by-products that have never been imported into Brazil or intended for a new use or a new country of origin, following the publication in the Federal Official Journal of the specific phytosanitary requirements, established by Pest Risk Analyses.

§ 1º The Pest Risk Analyses will be carried out by DDIV and by the Collaborative Centers accredited by the Ministry of Agriculture, Livestock and Food Supply.

§ 2º The costs associated with the preparation and review of the Pest Risk Analyses shall be paid by the interested party.

§ 3º The Pest Risk Analyses shall be conducted according to the standards approved by the Ministry of Agriculture, Livestock and Food Supply. They shall be the property of DDIV, and procedures to open PRA processes shall meet the requirements described in Appendixes I and II, respectively, of this Normative Instruction.

§ 4º The Plant Health and Inspection Department - DDIV shall keep an up-to-date databank with the list of Pest Risk Analyses processes at the Ministry of Agriculture's website.

Art. 2º DDIV may, at any time, regulate or review the phytosanitary requirements for importation of plant species and their parts, products, and by-products, which it believes to pose phytosanitary risks to Brazil, according to its own criteria, whereby it may strengthen or weaken the intensity of phytosanitary measures in force.

§ 1º The DDIV Director shall inform the public on the decision in an order published in the Federal Official Journal, and shall also notify the National Plant Protection

Organizations (NPPOs) of the countries involved, as well as the World Trade Organization - WTO.

§ 2º The DDIV Director may discontinue importation of plant species and their parts, products, and by-products found to pose imminent phytosanitary risks to Brazil, until phytosanitary requirements are set forth by means of a Pest Risk Analyses.

Art. 3º The Normative Instructions that set forth the importation requirements for plant species and their parts, products, and by-products shall be subject to public comment and, when this happens, all technically sound suggestions may be sent in writing to the Plant Health and Inspection Department. Once the term for public comment expires, the Plant Health and Inspection Department shall assess the suggestions received and may adopt them or not.

Art. 4º Exempt from Pest Risk Analyses and from the need of Phytosanitary Certificate the imports of plant species and their parts, products, and by-products categorized as risk zero (0) and risk one (1).

Art. 5º Exempt from mandatory Pest Risk Analyses plant species and their parts, products, and by-products that have had at least one shipment imported in the period between August 12, 1997 and the date on which this Normative Instruction comes into force, provided that it is from the same country of origin, it serves to the same use, it has not presented a record of interception of quarantine pests to Brazil and provided that it has no specific regulated phytosanitary requirements.

§ 1º Exempt from this article the plants and their products and by-products, living organisms, and other materials for scientific experiments, since they have specific regulation.

§ 2º The Plant Health and Inspection Department shall keep an up-to-date databank at the Ministry of Agriculture's website with the list of the plant species, the use proposed for them, their country and region of origin, whose importation may be authorized.

§ 3º In order to attest the importation of the products to which this article refers, the interested parties must present to the Federal Office of Agriculture (DFA) a processing document issued by the Ministry of Agriculture (MAPA) or a Declaration of Importation (DI) approved by the Ministry of Finance's Federal Revenue and Customs Secretariat (SRF) only for the period between April 12, 1997 and the date on which this Normative Instruction comes into force.

§ 4º The Federal Office of Agriculture (DFA) must send the Plant Health and Inspection Department an attestation for the importation document mentioned in paragraph 3 of this article.

Art. 6º File the Pest Risk Analyses dockets already registered to the plant species covered in Article 5.

§ 1º Exempt from Article 6, the dockets from which the interested party demonstrates in writing to DDIV the wish to continue the Pest Risk Analyses in a period of sixty (60) days after the publication of this Normative Instruction.

§ 2º The request to continue the Pest Risk Analyses covered in paragraph 1 of this article does not imply that importation of the product mentioned at the docket will be discontinued.

Art. 7º Imported shipments of the plants covered in Art. 5 will be inspected at the port of entry (Phytosanitary Inspection), and if there is any interception of pests or suspected pest movement into Brazil, the sanctions in the Plant Health Protection Regulation shall be applied.

§ 1º On cases of interception or suspected movement of exotic pests into Brazil, the Plant Health and Inspection Department (DDIV) shall notify the National Organization for Phytosanitary Protection (NPPO) in the exporting country and shall immediately inform discontinuation of importation of this plant species from that origin.

§ 2º The plants, their products and by-products, whose importation authorization is discontinued or canceled, may only be imported after approval or revision of the specific phytosanitary requirements set forth by means of a Pest Risk Analyses (PRA).

Art. 8º Define that material destined for multiplication or plant propagation will have samples of it sent to the official and/or accredited laboratories of phytosanitary diagnosis or to quarantine to assess the movement of pests.

§ 1º The interested party will be the custodian of the rest of the shipment until the lab exams are concluded and the Federal Agricultural Inspector issues the reports for release.

§ 2º To the Federal Agricultural Inspector shall be allowed to send samples for phytosanitary diagnosis or quarantine, when it is proved that the shipment being inspected is part of the same lot that has already been imported, analyzed, and released previously, and provided that inspection is carried out at the same port of entry.

§ 3º Imports of plant propagation or multiplication materials described in Art. 8 shall meet the specific phytosanitary requirements set forth after carrying out a Pest Risk Analyses.

Art. 9º The interested party shall pay the costs associated with sending the samples for phytosanitary analyses or quarantine.

Art. 10 This Normative Instruction shall come into force immediately after the date of its publication.

Art. 11 Ministerial Ordinance 127, of April 15, 1997, published in the Federal Official Journal dated April 18, 1997, and Normative Instructions no. 59, and no. 60, published in the Federal Official Journal dated November 26, 2002 are herein revoked.

JOSÉ AMAURI DIMARZIO, Interim Minister of Agriculture

Appendix I: Procedures to start a Pest Risk Analysis Process

The procedures covered in this Appendix apply to the Pest Risk Analyses (PRA) processes aiming to establish or review phytosanitary requirements for importing plants, their products and by-products.

1. PRA Request: The interested party must observe the following procedures:

1.1. The PRA request and the basic information must be registered with the Federal Office of Agriculture (DFA) in the State where the interested party is located or directly to the Plant Health and Inspection Department (DDIV), when the interested party is a National Organization for Phytosanitary Protection or a diplomatic body.

1.2. The PRA request may be registered by associations or groups of interested parties, and must be specific in regard with plant species, proposed use and country of origin.

1.3. The DFA shall analyze the documentation presented by the interested party as regards the submission of the basic information requested and, if they are compliant, DFA will send the proceeding to the Plant Protection and Inspection Division (DDIV).

1.4. Should the basic information be incomplete, the DFA will notify the interested party of the need to rectify it.

1.5. All information must be in Brazil's official language.

2. Basic information for PRA request: In order to request the start of a PRA process, the interested party must supply the following basic information:

2.1. Interested Party Data:

- Name of the Individual / Institution / Company / Diplomatic Body or NPPO;
- Name of the Legal Representative;
- CPF (Individual Taxpayer Identifying Number)/CNPJ (National Registry of Legal Entities) – Not applicable to Diplomatic Bodies and NPPOs);
- Full Address;
- Telephone;
- Fax;
- E-mail.

2.2. Plant Product object of the PRA:

- Scientific name (botanical species);
- Plant part to be imported;

- Proposed use (propagation, consumption, transformation, etc.);
- Description of the product to be imported (presentation mode, packaging to be used among other relevant pieces of information);
- Inform the history of previous imports for PRA review purposes: country of origin, quantity and frequency of importation.

2.3. Plant Product's Country of Origin:

- Identification of production areas or regions;
- Location of the ports of exit or shipping of the product; - Means of transportation of the product to Brazil.

3. PRA Process: The PRAs shall be designed by the DDIV in collaboration with the NPPOs of the countries interested or in a partnership with the Cooperation Centers accredited by MAPA and hired by the interested party. The PRAs must follow the guidelines established by MAPA.

3.1. For PRA design purposes, the DDIV may request the information below from the exporting country's NPPO. Should the NPPO officially deny providing such information, the DDIV may decide to dismiss the process.

- Scientific name of the pests which have been registered in the country and which might enter Brazil;
- Popular names of the pests in the country;
- Taxonomic classification of the pests;
- Synonyms;
- Scientific name of the host species;
- Plant parts affected;
- Phenological stage of the crop where the attack occurs;
- Control method(s);
- Economic impacts (including environmental impacts);
- Ability to act as a vector of another pest;
- Geographical distribution of the pest;
- Quarantine treatments against the pests;
- Description of the Inspection and Surveillance systems adopted;
- Official programs for pest control;
- Description of the Official Phytosanitary Certification System;
- Description of the Risk Mitigation System;
- Areas and places free from pests;
- Full address, telephone, fax, and e-mail of the official or private research institution in the country of origin that deals with the product that is the object of the PRA.
- Bibliographical references;

Date and Signature

3.2. The interested party may indicate a Cooperation Center accredited by MAPA to design a PRA report. The interested party shall pay the Center's

costs. The list of accredited Centers is in the following electronic address: www.agricultura.gov.br, click on the link "Serviços - Análise de Risco de Pragas" (Services – Pest Risk Analyses)

3.3. The Cooperation Centers shall send the PRA reports to the DDIV for analysis. The DDIV may request the Cooperation Center, through a notification, to provide additional information or to review the PRA.

3.4. Once the PRA is concluded, the DDIV shall set forth the specific phytosanitary requirements for importation and origin of that product, and shall send the proceeding to the Plant and Animal Health Protection Secretariat for final approval and publication in the Federal Official Journal of the Normative Instruction, following a statement from the NPPO of the exporting country.

3.5. Communication may be sent to the NPPO when the PRA does not identify phytosanitary risk pests that may travel within the parcels shipped.

Appendix II: Request for sending the PRA proceeding to the cooperation center

To: Director of the Plant Protection and Inspection Division

1- Name of the interested party (individual or legal representative)

2- Institution and address

Knowing the Brazilian regulation on Pest Risk Analyses (PRA) for the importation of plant products, herein requests that:

Docket no.

referring to the PRA for the importation of (plant product)

from (country of origin) be sent

to (Cooperation Center) to the attention of Mr./Mrs./Miss./Ms.

(Name of the Technician in Charge at the Cooperation Center). To this end, I herein state that I will be responsible for the costs related to the analysis of this docket in the Cooperation Center mentioned above.

Date and signature